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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted pursuant to Commission on Human Rights resolution 1993/45

Addendum

Report on the mission of the Special Rapporteur to the Islamic Republic of Iran

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Introduction

1. This report has been prepared pursuant to resolution 1993/45 of the Commission on Human Rights and decision 1993/268 of the Economic and Social Council. It analyses the information received by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, during his visit to the Islamic Republic of Iran from 6 to 10 January 1996, as well as information received from non-governmental organizations and individuals active in the field of his mandate concerning allegations of violations of the right to freedom of opinion and expression.

2. By letter dated 29 August 1995, the Special Rapporteur was invited by the Government of the Islamic Republic of Iran to visit the country.

3. The Government and the Special Rapporteur subsequently agreed that the visit would take place from 5 to 10 January 1996. However, owing to delayed flights the Special Rapporteur arrived in Tehran only in the late evening of 6 January instead of the morning of 5 January, thus losing valuable time. Much to his regret, a further day was lost on account of a public holiday.

4. The Special Rapporteur would like to express his sincere appreciation of the cooperation extended to him by the Government of the Islamic Republic of Iran in discharging his mandate.

5. The Special Rapporteur would also like to express his sincere appreciation to the United Nations Resident Coordinator and the staff of the United Nations Development Programme (UNDP) in Tehran for their assistance in the organization of his visit.

6. During his visit, the Special Rapporteur met, at his own initiative and at the initiative of the Government, with representatives of the Government and Administration of the Islamic Republic of Iran, members of the press community and a few members of the academic community. He also met with a small number of individuals who, through their professional activities or other experience, have a special knowledge of the subject matter of the Special Rapporteur's mandate. The Special Rapporteur was impressed by the forthrightness of these individuals, some of whom indicated a wish to remain anonymous. Out of respect for their wish, the Special Rapporteur will not refer to these individuals by name. Among the persons with whom the Special Rapporteur met were the following:

(a) The Government of the Islamic Republic of Iran:

His Eminence Ayatollah Yazdi, Head of the Judiciary

His Excellency Dr. Velayati, Minister for Foreign Affairs

His Excellency Dr. Zarif, Deputy Foreign Minister

His Excellency Mr. Maleki, Deputy Foreign Minister

His Excellency Mr. Ashari, Deputy Minister of Islamic Culture and Guidance

(b) Other persons:

Hojjatolislam val muslemin Dr. Amid Zanjanie, Head of Press Tribunal Jurisdiction

Mr. Badamtchian, Senior Member of the Commission on Political Parties

Dr. Rajaie Khorasani, Member of the Commission on Islamic Human Rights

Mr. Daryayie, Editor-in-Chief of the daily Hamshahri

Dr. Poornejatie, Vice-President of Iran National Radio and Television (Islamic Republic of Iran)

7. Owing to shortage of time and overlapping engagements resulting from last-minute changes to the programme, the Special Rapporteur unfortunately could not see all the persons with whom he had intended to meet. They included:

(a) Some of the persons regarding whom the Special Rapporteur had requested information from the Government during 1994, but about whom he had received no or, in the case of one communication, very little information (these persons are referred to in greater detail in section I);

(b) Mr. Morteza Afshari Rad, who was reportedly detained at Qazvin prison in Tehran in relation to illegal political activities;

(c) A small number of persons with whom he had arranged to meet at the UNDP office, but with whom he could not keep the appointment owing to changes to the programme made at short notice, which delayed his arrival at the UNDP premises;

(d) Mr. Abbas Amir Entezam, a former deputy prime minister, arrested in 1979 and sentenced to life imprisonment in a trial reportedly falling short of international standards on accusations that included having met with diplomats of a particular country. He has been held under house arrest since early 1995. In the view of the Government, since the case of Mr. Entezam was related to espionage and not to freedom of opinion and expression, a visit to Mr. Entezam was considered as being outside the scope of the mandate of the Special Rapporteur and was therefore not arranged.

8. In the present report, the Special Rapporteur considers those issues that were at the forefront of his discussions during his visit and that he deems most important in relation to his mandate. The Special Rapporteur would like to present his views with the intention of assisting the Government of the Islamic Republic of Iran in the promotion and protection of the right to freedom of opinion and expression, as affirmed in the Universal Declaration of Human Rights and guaranteed in the International Covenant on Civil and

Political Rights, to which the Islamic Republic of Iran is a party. He is confident that the Government of the Islamic Republic of Iran will consider this report as an earnest attempt on his part to assist it in its endeavour to ensure the freedom of opinion and expression of its citizens.

I. PRINCIPAL CONSIDERATIONS AND CONCERNS

A. Communications

9. In his report to the Commission on Human Rights at its fifty-first session (E/CN.4/1995/32), the Special Rapporteur referred to cases he had transmitted to 47 Governments, including the Government of the Islamic Republic of Iran. This section offers a description of the status of the relevant cases.

10. In a letter dated 7 March 1994, the Special Rapporteur requested information from the Government of the Islamic Republic of Iran on Ms. Malakeh Mohammadi, an editor-journalist with the publishers Mardom and Donya and over 70 years of age. According to information received by the Special Rapporteur, Ms. Mohammadi was sentenced to death in 1986 and subsequently had her sentence commuted to 20 years' imprisonment. She reportedly was released from prison in April 1992 and has been living under house arrest in Tehran since her release.

11. In the same letter, the Special Rapporteur requested information on Mr. Manouchehr Karimzadeh, a cartoonist. According to information received by the Special Rapporteur, Mr. Karimzadeh was arrested on 11 April 1992 accused of insulting the memory of Ayatollah Khomeini by having drawn, for a magazine by the name of Farad, a cartoon depicting a soccer player with an amputated arm and leg, whose face allegedly resembled that of Ayatollah Khomeini. According to this information, on 16 September 1992, Mr. Karimzadeh was sentenced to a prison term of one year and was fined an amount of Rials 500,000, on 14 May 1993 the verdict was repealed by the Supreme Court; and in October 1993 he was tried again and sentenced to a prison term of 10 years.

12. At the time of his visit, the Special Rapporteur had not received a reply to this letter. He notes that the Government had informed the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran, in reply to a request by the Special Representative for information (A/49/514/Add.2), of the pardon and release of Mr. Karimzadeh. The Special Rapporteur also notes, however, that adequate information was not made available to him on the basis of which he would be able to conclude that Ms. Mohammadi and Mr. Karimzadeh have been sentenced as a result of national legislation, applied in accordance with the obligations arising under the International Covenant on Civil and Political Rights and especially in relation to article 19 thereof.

13. In a letter dated 29 April 1994, the Special Rapporteur requested the Government of the Islamic Republic of Iran for information on Mr. Ali Akbar Saidi-Sirjani, a poet and essayist, and Mr. Niazi Kermani, a poet and journalist. According to information received by the Special Rapporteur, both men were arrested on 14 March 1994 and sentenced to death, without having had

a fair trial, on the accusation of "drug trafficking", "homosexual acts", the "making of alcoholic beverages", "corruption" and "accepting money from Israel".

14. In a letter dated 4 May 1994, the Government of the Islamic Republic of Iran acknowledged receipt of the letter of the Special Rapporteur dated 29 April 1994 and informed the Special Rapporteur that the judicial authorities of the Islamic Republic of Iran had been notified of the matter and would investigate it. In addition, the Government informed the Special Rapporteur that, contrary to the allegations contained in his letter, no judicial verdict had so far been issued by the competent courts and that the cases in question were currently under investigation. At the time of his visit, the Special Rapporteur had received no further information from the Government with regard to these persons. However, according to information received from other sources, Mr. Saidi-Sirjani was said to have died of a heart attack in a Tehran hospital, while in detention, on 27 November 1994. The Special Rapporteur notes the information on Mr. Niazi Kermani and Mr. Saidi-Sirjani presented in the report of the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1995/55, paras. 97-99). He also notes, however, that no information was made available to him on the basis of which he would be able to conclude that Mr. Saidi-Sirjani and Mr. Kermani have been sentenced as a result of national legislation applied in accordance with the obligations arising under the International Covenant on Civil and Political Rights and especially in relation to article 19 thereof.

15. In a letter dated 27 June 1994, the Special Rapporteur requested the Government for information on the writer Mr. Salman Rushdie, a national of the United Kingdom of Great Britain and Northern Ireland, and Mr. Nygaard, a publisher and national of Norway. According to information received by the Special Rapporteur, the then leader of the Islamic Republic of Iran, Ayatollah Khomeini, had issued an edict, also referred to as fatwah, on 14 February 1989, condemning to death Mr. Rushdie and all persons involved in the publication of a literary work entitled The Satanic Verses. The edict allegedly called for the execution of Mr. Rushdie and promised that any Muslim who might be killed while attempting to murder Mr. Rushdie would be declared a martyr. According to information received by the Special Rapporteur, Mr. Nygaard, who had published the literary work in question in Norway, was shot at on 11 October 1993. In his letter, the Special Rapporteur referred to a number of other instances of the use of violence, as a result of the edict, against persons who sought to exercise or to promote the exercise of the right to freedom of opinion and expression. He also referred to the murder, on 11 July 1991, of the translator of the literary work in question into the Japanese language.

16. At the time of his visit to the Islamic Republic of Iran, the Special Rapporteur had not received a reply from the Government to this letter.

17. During his visit, the Special Rapporteur was informed by the Government that fatwahs are issued by the religious authorities and not by State organizations per se and that it did not seek or encourage the killing of Mr. Rushdie or any persons involved in the publishing of The Satanic Verses. The Government stressed it did not associate itself with any attack on anyone

outside its jurisdiction and did not interfere in the internal affairs of other States. Furthermore, the Government expressed the view that if Mr. Rushdie were to be considered free to express himself to the point of hurting the religious sentiments of a billion Muslims then, by the same token, others should have the right to chastise and condemn him. The Government expressed the view that the right to freedom of opinion and expression should be interpreted either without limitations or with limitations that applied equally to all and that, ultimately, the controversy over Mr. Rushdie could be solved only through respect on both sides for the views and feelings of all parties involved. The Special Rapporteur was informed that the Government of the Islamic Republic of Iran was pursuing the matter further with concerned European Governments. The Islamic Republic of Iran appears to be taking initiatives on human rights in general and Mr. Rushdie's case in particular, but within its domestic ideological framework.

18. In a letter dated 25 August 1994, the Special Rapporteur requested the Government for information on Mr. Azizu'llah Gulshani who, according to information received by the Special Rapporteur, was executed by hanging on 29 April 1982, accused of, among other things, "propagating and teaching the anti-Islamic ideology of Bahaism" and "writing anti-Islamic articles". The Special Rapporteur referred in his letter to a 1993 statement by the Attorney-General of the Islamic Republic of Iran to the effect that a follower of the Baha'i religion would encounter no persecution provided he "does not form assemblies [and] does not give news to others".

19. At the time of his visit, the Special Rapporteur had not received a reply from the Government to this letter.

20. During his visit, the Special Rapporteur had requested to meet with Ms. Mohammadi, Mr. Karimzadeh and Mr. Niazi Kermani, among others, to seek information for the purpose of forming an opinion on matters relating to his mandate. He was informed by the Government that these three persons were not being detained, nor were they under house arrest. The Special Rapporteur subsequently attempted to locate and contact these persons, but unfortunately was not able to do so.

21. The Special Rapporteur presented the Government of the Islamic Republic of Iran with copies of his communications and invited the Government anew to submit any information it would wish to share on the persons referred to. In addition, the Special Rapporteur is seeking further information from the Government on a number of persons about whom information received by him, both before and during his visit, appears to indicate a violation of their right to freedom of opinion and expression. After having carefully considered all information necessary to arrive at a well-informed opinion, the Special Rapporteur will present his observations on these cases to the Commission on Human Rights, if necessary.

B. National legislation

22. The Special Rapporteur in this section briefly considers some aspects of the legal framework of the Islamic Republic of Iran for the purpose of assessing the compliance of national legislation and its application with the

obligations arising under the International Covenant on Civil and Political Rights with regard to the promotion and protection of the right to freedom of opinion and expression.

23. The Special Rapporteur notes that article 1 of the Constitution proclaims Iran as an Islamic Republic. The Special Rapporteur was informed that the Republic's laws and regulations have been ratified on the basis of faith in Islam. He also notes that article 4 of the Constitution set out the principle that all laws and regulations of the Islamic Republic of Iran must be based on Islamic criteria and that this principle applies absolutely and generally to all articles of the Constitution, as well as to all other laws and regulations.

24. Article 4 of the Constitution also stipulates that the members of the Guardian Council are considered judges in this matter. The Special Rapporteur notes that article 91 of the Constitution establishes the Guardian Council and specifies its composition by six adil fuqaha (religious jurisprudents of Shia Islam) and six jurists of the Muslim faith. Article 96 of the Constitution places the power to determine compatibility with the laws of Islam of legislation passed by the National Consultative Assembly with a majority vote among the six adil fuqaha and the determination of its compatibility with the Constitution with a majority vote among all members of the Council. Article 98, furthermore, vests authority for the interpretation of the Constitution in the Guardian Council.

25. The Special Rapporteur notes that article 14 of the Constitution stipulates that the Government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. The article specifies that this principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran.

26. The Special Rapporteur notes that article 3 of the Constitution obliges the Government to direct resources to the press and mass media to attain the objectives of the Islamic Republic. The article furthermore obliges the Government to prevent foreign influence.

27. The Special Rapporteur notes that article 20 of the Constitution stipulates that all citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria.

28. The Special Rapporteur notes that, in accordance with article 23 of the Constitution, the investigation of individuals' beliefs is forbidden, and that no one may be molested or taken to task simply for holding a certain belief.

29. The Special Rapporteur notes that, in accordance with article 25 of the Constitution, publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public and that the details of this exception will be specified by law.

30. The Special Rapporteur notes article 26 of the Constitution, which reads:

> "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic ...".

31. The Special Rapporteur notes that article 27 of the Constitution allows for public gatherings and marches to be freely held, provided they are not detrimental to the fundamental principles of Islam.

32. Article 175 of the Constitution provides that "the freedom of expression and dissemination of thoughts on the radio and television of the Islamic Republic of Iran must be guaranteed in keeping with Islamic criteria and the best interests of the country".

33. The Press Law regulates, among other things, the rights and limitations of the press. It requires applicants for publication licences not to be morally corrupt and not to have a criminal record, as based on Islamic principles. Its chapter 4 deals with limitations on the press and prohibits, in article 6.1, the publishing of anything against Islamic principles, as well as, in article 6.7, insulting Islam and insulting the Leader and other Islamic jurisprudents. Its article 34 stipulates that offences committed by the press against the Press Law will be investigated by a competent court in the presence of a jury.

34. The Special Rapporteur was informed that, on 5 November 1995, the Majlis (Parliament), passed a law which provides for punishments of up to 74 lashes and six months' imprisonment for those persons who vocally or in writing insult the following officials: the President and Deputy President, the Head of Judiciary, ministers, Members of Parliament and members of the Guardian Council and the Council of Experts. Reportedly, the law allows for punishment by the same number of lashes of persons who insult or use obscene language against other persons in general.

35. The Special Rapporteur was informed that, at the end of November 1995, the Majlis adopted a new penal code, that allows for punishments of up to three months' imprisonment for making propaganda against the Islamic regime and up to two months' imprisonment or 74 lashes for women who do not respect the dress code.

C. Information received by the Special Rapporteur

36. In this section the Special Rapporteur presents information that he has received in accordance with his mandate that concerns events having taken place since 1 January 1995. He includes this information, not for the purpose of giving an exhaustive account of events relating to his mandate but for the purpose of presenting the Commission on Human Rights with a broad view of the situation with respect to the promotion and protection of the right to freedom of opinion and expression in the Islamic Republic of Iran.

37. The Special Rapporteur was informed of an Islamic human rights commission being established under the direction of the Head of Judiciary. This Commission would count among its objectives the articulation of human rights from the Islamic point of view; cooperation with national and international human rights organizations, with particular emphasis on the investigation and follow-up of matters relating to the Islamic Republic of Iran; and the review of the status of the Islamic Republic of Iran in relation to international covenants and conventions in the field of human rights. Within the Commission, five committees will function, among them one dealing with, inter alia, the identification of points of convergence and difference between Islamic human rights and international human rights instruments; one monitoring the enjoyment of Islamic human rights in the Islamic Republic of Iran and other countries; and one to investigate complaints and to report the results to the President of the Commission.

38. The Special Rapporteur was informed that, between 22 and 26 January 1996, about a fortnight after his visit, Mr. Abbas Maroufi, editor of the monthly magazine Gardoun, was sentenced to a prison term of six months and an additional punishment of 35 lashes and was banned from working as a journalist for two years, allegedly for having insulted the late leader of the Islamic Republic of Iran by comparing him to the late Shah of Iran.

39. The Special Rapporteur was informed of the sentencing, at the end of October 1995, of Mr. Mohamad Sadeq Javadi Hessari, editor of the provincial daily Tous, to a prison term of six months and an additional punishment of an unspecified number of lashes on accusations including slander. According to this information, the sentence was passed on Mr. Hessari after he had criticized a court for ordering a ban on his publication without stating any charges.

40. The Special Rapporteur was informed of other press professionals being sentenced to prison terms, banned from exercising their profession and receiving lashes, inter alia for slander, divulging secrets, infringing the press law, and engaging in activities deemed by the courts not to be consistent with Islamic principles. Among press professionals reported to have received such sentences are the directors of the weeklies Arzesh and Gozaresh-e-Hafteh (in August 1995) and Mr. Abolqassem Golbaf, publisher of the monthly Gozaresh (in December 1995).

41. The Special Rapporteur was informed that, on 11 November 1995, Mr. Sayed Morteza Shirazi, an author, was arrested at his home in the city of Qom, by officers of the public security forces who did not produce a warrant for his arrest. According to this information, Mr. Shirazi has been subjected to torture and is being held in incommunicado detention.

42. The Special Rapporteur was informed of the suspension of periodicals on grounds including defamation, acting against the security of the State and tarnishing officials. Among these suspended periodicals were the daily Jahan-e-Eslam (in February 1995), Payam-e-Daneshjou (in July 1995), and the provincial daily Tous (in October 1995).

43. The Special Rapporteur was informed of the cancellation of licences for publication by the Press Supervisory Board of the Ministry of Islamic Culture and Guidance on grounds including non-respect for Islamic principles, as in the case of the daily Takapu in March 1995.

44. On 10 June 1995, at 6.30 p.m. the personnel of the office of the weekly Payam-e-Dasneshjoo ("Student's Message") was subjected to harassment and violence by a crowd. According to information received by the Special Rapporteur, the crowd entered the building by force, closed its exits and disconnected all telephones, destroyed property inside the office and stole cheques for millions of rials, as well as an unspecified amount of cash. Allegedly, members of the crowd stated that the crowd represented the law, had previously warned the weekly not to write anything critical of the "heads of the three branches of government", but had found that the weekly had none the less continued to do so. Furthermore, members of the crowd allegedly threatened the director, editor-in-chief and staff of the weekly, stating that they would be killed. The police reportedly arrested three suspects and began investigations.

45. On or around 23 August 1995, the bookshop and publishing house Morqh-e-Amin, located on the Karim Khand Zand Avenue in Tehran, was set on fire as the result of the explosion of a bomb by private individuals. According to information received by the Special Rapporteur, the arson attack was related to the publication of a novel written by Mr. Mohamad Reza Koshbin Khoshnazar and entitled Khodayegan Doshanbeha Mikhandand ("Gods laugh on Mondays") that had apparently aroused the anger of the arsonists. Furthermore, one employee was allegedly kidnapped for a number of hours and severely mistreated by unknown individuals. The aggressors reportedly identified themselves as members of the police force and threatened to kill the director of the publishing house and bookshop, Mr. Ebrahim Rahimi Khamenei, comparing him to the British writer Salman Rushdie. Mr. Khamenei had reportedly received a number of threats over the telephone, prior to this violent incident. Allegedly, the arson attack and harassment in relation to the book provoked controversy in the press, whereupon the book was banned and remaining copies of it seized, even though it had previously received a licence for printing, publication and distribution from the Ministry of Islamic Culture and Guidance. According to the Islamic Republic News Agency, the security forces were reviewing the violent incident.

46. The Special Rapporteur was informed that the personnel of the offices of the publications Gardoun, Farad and Donyaye Shokan had also been subjected to harassment by private individuals recently.

47. In July 1995, 107 academics, in an open letter addressed to the President, requested the Government to respect the Constitution and the liberties granted therein and to take effective measures to prevent and counter the recurrent violent interference with the right to freedom of opinion and expression.

48. The Special Rapporteur has received information indicating that certain bureaucratic elements have explicitly expressed their support for the use of violence and harassment as in the incidents described in the previous paragraphs. According to this information, Ayatollah Ahmad Jannati, a member

of the Guardian Council, President of the Islamic Propagation Organization and Commander of the Board for the Suppression of Vice and the Ordering of Virtue was alleged to have publicly supported the violent action taken against the Morqh-e-Amin publishing house, claiming that the assailants were following a directive by the late leader of the Islamic Republic, Ayatollah Khomeini. Reportedly, on 25 August 1995, Ayatollah Jannati publicly advised the authorities not to punish the people who had fire bombed the publishing house and bookshop in question since, in the opinion reportedly expressed by Ayatollah Jannati, these people "had done what the authorities should have done in accordance with Ayatollah Khomeini's political testament". Ayatollah Jannati reportedly added to these words the following: "The will of our dear Imam and his guidelines in his testament are above any law, even those of our Islamic Constitution." He, furthermore, reportedly stated that the publisher in question had committed a crime by publishing the literary work entitled "Gods laugh on Mondays", even though the work had received prior authorization for publication, as required for all publications under Iranian law.

49. The Special Rapporteur has been informed of instances where press and media professionals, academics and other persons have been summoned to report in person to various organs of the Government in connection with their exercise of the right to freedom of expression. In a number of cases the persons concerned were requested or instructed not to express themselves in public on certain issues. In some instances, persons allegedly have been warned that, if they do not comply with this request they could possibly face acts of violence on the part of the public, which might be enraged by the expression concerned. Some officials reportedly claimed that the Government, in such cases, could not prevent such acts of violence from taking place. Some officials reportedly referred to such acts as being "justified". Of late, conservative and radical factions, together with a technocrat faction, have been engaged in criticizing government policies and officials in newspaper articles. A scenario is gradually developing in which the right to challenge the centre of power is being exercised much more freely and openly than before.

50. The Special Rapporteur has been informed that it is prohibited by law to import, distribute, possess or use satellite antennae. According to information received, the Government strenuously enforces the law, making use of aerial pictures to locate satellite dishes so as to be able to prevent their continued use. Press reports over the past year indicate that dishes are frequently confiscated, the owners or users punished with a fine of up to 3 million rials (approximately US$ 1,700) and persons engaging in selling or distributing them punished more severely.

51. The Government informed the Special Rapporteur that this legislation had been enacted at the initiative of the Majlis for the purpose of safeguarding the cultural identity of the Islamic Republic of Iran against unwarranted influence by the international mass media through the broadcasting of destructive and indecent satellite programmes, and not for the purpose of obstructing or hampering the possibilities for the general public to obtain information. That was apparent, in the view of the Government, in the continuous access of all persons in the country to international AM or short-wave radio broadcasts. The Government furthermore expressed the view

that the prohibition of satellite dishes should be regarded as an issue related to public morality, for the protection of which provision was made in article 19 of the International Covenant on Civil and Political Rights.

52. The Special Rapporteur was informed of the motivations expressed in the Majlis during the debate leading to the adoption of the law. These included objections to the effects of satellite programmes on the preferences of Iranian youth with regard to clothing and their general outward appearance, concern at what was referred to as a "Western cultural invasion" and the conviction that the ban would constitute an "auspicious step towards confronting the enemy's cultural attack".

53. The Special Rapporteur was informed that State agencies exercise elaborate direct and indirect control on the press, the media and publications and that prior authorization is required to publish, bind and distribute books, newspapers, magazines and other forms of printed, as well as audio and visual materials.

54. The Special Rapporteur was informed that the printed media regularly report on the existence of censorship and self-censorship, either by alluding to it in an indirect way or by printing reports of telephone calls received by newspapers from readers expressing their dissatisfaction with its existence. The Special Rapporteur has not found any news report, during or around the time of his visit, that explicitly called into question the existing mechanisms of State that supervise the press and printing industries.

55. With regard to film production, the Special Rapporteur was informed that scenarios, funding, production and distribution require authorization by the competent organs of the Government. The Special Rapporteur was informed that in June 1995, 214 film makers addressed an open letter to the Government calling for the lifting of restrictions on their professional activities, which they judged to be "straightjacket regulations" and "complicated methods of supervision".

56. The Special Rapporteur was informed that in October 1994, a number of Iranian writers called, in an open letter addressed to the Government, for an end to censorship. He was also informed that in December 1994, hundreds of journalists, in an open letter addressed to the Government, protested against censorship and the closure of newspapers by the Government.

57. The Special Rapporteur was informed that, by act of Parliament, the Guardian Council has been charged with supervising elections to Parliament, scheduled to take place on 8 March 1996. The Special Rapporteur was informed that only individuals not formally affiliated with any political group or party are allowed to register as candidates. The act authorizes the Guardian Council to verify the qualifications and veto the registration of all persons applying as candidates for the elections. The Special Rapporteur notes, as at the time of writing of the present report, the absence of political parties or candidates having presented themselves to the public. He also notes the lively debate in the printed media on the forthcoming elections and the criticism being expressed on restrictions imposed on political groups, parties and individual candidates participating in the elections.

58. The Special Rapporteur was informed that, on 10 January 1996, the "Office of Solidifying Unity and Strengthening Elections", the official status of which is not known to the Special Rapporteur, issued a public statement opposing the supervision of the elections by the Guardian Council and referred to it as a "facade" which in reality served merely to hide from public scrutiny the purging of candidates who held or expressed political opinions not acceptable to the authorities.

59. The Special Rapporteur was informed that one de facto political party by the name of "Movement for the Liberation of Iran" had applied but not obtained a licence to establish itself in accordance with the legal requirements in the Islamic Republic of Iran. He was also informed that this party had attempted, on 31 January 1996, to hold a press conference in the course of its attempt at participating in the elections but that the authorities had prohibited the conference, for which prior authorization had been sought in accordance with the requirements of the law. The Special Rapporteur was informed that this party recognized the principle of an Islamic State but not the regime currently in power.

60. The Special Rapporteur was informed of gender-based restrictions on the right to freedom of assembly, including in relation to practising sports in public, and of gender-based restrictions on the right to freedom of movement, inter alia by the requirement for women to travel in the company of a male family member or by the requirement of authorization by the husband for the foreign travel of spouses. The Special Rapporteur also received information on restrictions on the participation of women in public and political life and was informed that this leads, in their view, to restriction of freedom of opinion and expression.

II. CONCLUDING OBSERVATIONS

61. The Special Rapporteur notes the close, formal and institutionalized relationship in the system of government of the Islamic Republic of Iran between the mosque and its clerical hierarchy on one side and the State and its agencies on the other. He notes, given this context, that the promotion and protection of the right to freedom of opinion and expression intimately relates to that of the right to freedom of thought, conscience and religion, as enunciated in article 18 of the International Convenant on Civil and Political Rights. In particular, the freedom to manifest one's religion or religious or non-religious belief, as guaranteed in the same article, has a political connotation which links it directly to the freedom of opinion and expression. For this reason, the Special Rapporteur appreciated the invitation extended by the Government of the Islamic Republic of Iran to the Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, to visit the country, allowing these two rights to be considered, taking account their enhanced interrelatedness in the Islamic Republic. Mr. Amor visited the Islamic Republic of Iran in December 1995 and submitted his findings to the Commission on Human Rights in document E/CN.4/1996/95/Add.2.

62. The Special Rapporteur observes a lack of precision with respect to the scope and meaning of some key concepts in the articles of the Constitution and national legislation that form the legal framework for the promotion and protection of the right to freedom of opinion and expression. He is concerned

at the extent of limitations on the right to freedom of opinion and expression, as well as on the interlinked right to freedom of assembly and association, legally permitted on the basis of criteria or fundamental principles of Islam or the Islamic Republic as interpreted by the authorities and the courts, in particular in relation to content based restrictions on the exercise of the right to freedom of opinion and expression. The Special Rapporteur observes that the requirement for all laws and regulations of the Islamic Republic of Iran to be based on Islamic criteria functions as a basis on which the Government is able to apply prior restraints and censorship on the press, media and other forms of publication. He observes that the absence of clearly established criteria to assess whether a given action or expression is in accordance with the State religion gives rise to infringements upon the right to freedom of opinion and expression and the right freely to seek and receive information, regardless of frontiers, through any media of one's choice. In this connection, the Special Rapporteur notes that article 19.2 of the International Covenant on Civil and Political Rights protects freedom of expression with respect to "ideas of all kinds". In regard to the scope of protection offered by article 19.2 of the Covenant, the Special Rapporteur would like to refer to the reasoning of the Supreme Court of India, which he fully endorses, which stated (in the case of Naraindas v. State of Madya Pradesh, 1974 (3) Supreme Court Reports 624, 650):

> "It is our firm belief, nay, a conviction which constitutes one of the basic values of a free society to which we are wedded under our Constitution, that there must be freedom not only for the thought that we cherish, but also for the thought that we hate."

63. The Special Rapporteur notes the existence of institutionalized and legally sanctioned forms of distinction, exclusion or restriction made on the basis of sex. He considers that restrictions on the freedom of choice in matters referred to in paragraph 60 above could inhibit the full enjoyment of the right to freedom of opinion and expression.

64. The Special Rapporteur is of the opinion, in concert with the views expressed by the Government during his visit, that tolerance begets tolerance and that a mutual respect for beliefs, opinions and values is a prerequisite for harmonious relations between individuals, groups, peoples and States. He notes that nurturing such respect requires a spirit of open debate and a genuine willingness on all sides to accept the validity of norms derived from other cultures than one's own. Cultures are not static phenomena, but change, interrelate and develop continuously. The fact that norms may be formulated in one particular culture does not preclude their cross-cultural acceptance and application. The Special Rapporteur considers that the United Nations Bill of Rights, i.e. the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, adequately reflects cross-cultural views on the achievement of justice through legal means and constitutes a valid and universally accepted basis for promoting mutual respect among individuals, groups, peoples and States. He believes mutual tolerance and respect can be achieved through the effective implementation of universal human rights, which allows for respect of all tenets of particular cultures that are not incompatible with the content of universal human rights. The Special Rapporteur firmly believes it is a primary task of the

international community as a whole and all individual States member of the United Nations in promoting and protecting the right to freedom of opinion and expression to seek the effective implementation of international instruments relating to the protection of this right. The Special Rapporteur recognizes that the need may arise for the State to take measures to protect public morality, including in relation to international broadcasts. He considers that States should not try to achieve this protection through the use of censorship or the banning of satellite antennae or other information carriers. In this regard, he refers to the guidance offered by the Human Rights Committee in its General Comment No. 10 on article 19 of the International Covenant on Civil and Political Rights. He notes that restrictions on this right may be imposed for the purpose of protecting the legitimate interests of society, only if the restrictions are provided by law, necessary to achieve their purpose and proportional in severity to the purpose sought to be achieved.

65. The Special Rapporteur notes the occurrence of threats or use of violence and harassment, including persecution and intimidation, directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and guaranteed in the International Covenant on Civil and Political Rights. He observes a similar pattern in relation to professionals in the field of information. The Special Rapporteur notes that the Government generally fails to condemn strongly and unequivocally such threats and use of violence by irregular groups of private persons against professionals in the field of information. The Special Rapporteur is concerned that such acts of intimidation are at times publicly defended by prominent members of the government bureaucracy, in the full knowledge that such actions have taken place outside the confines of the law. The Special Rapporteur notes that no case has been brought to his attention where legal action has been initiated against persons engaging in such acts, nor against persons publicly inciting or condoning the undertaking of such illegal acts. The Special Rapporteur fears serious undermining of the rule of law if this pattern continues.

66. The Special Rapporteur observes that persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression are subjected to corporal punishments prohibited under article 7 of the International Covenant on Civil and Political Rights. The Special Rapporteur is especially concerned at the punishment by lashing of persons who seek to exercise the right to freedom of expression, in particular in cases involving the application of the laws regulating the press. The Special Rapporteur observes that these laws contain provisions that restrict the right to freedom of opinion and expression beyond the restrictions provided for in the Covenant.

67. The Special Rapporteur, notes that the Constitution of the Islamic Republic places the highest political authority in the hands of the supreme Leader, the Leadership Council and religious jurisprudence. He also notes the interpretation presented to him in the matter of religious edicts, according to which these are directions given by the religious leader to those seeking advice and that the State is not a party to that advice, nor bound to implement it. The Special Rapporteur notes in this regard that a question of State responsibility arises in circumstances in which the State does not take

measures to protect all human rights, including the right to life, the right to freedom of religion and belief and the right to freedom of opinion and expression, which it is required to take in compliance with the obligations arising under the International Covenant on Civil and Political Rights.

III. RECOMMENDATIONS

68. On the basis of the principal observations and concerns set out in the previous section, the Special Rapporteur would like to offer the following recommendations. He trusts these recommendations will be received, as they are offered, in a spirit of commitment to the respect of the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and guaranteed in the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party.

69. The Government is encouraged to take the necessary steps to ensure that the right to freedom of opinion and expression as enunciated in the International Covenant on Civil and Political Rights, and especially in article 19 thereof, can be exercised without any limitations or restrictions other than those provided for in the Covenant. The Government is encouraged to adapt its national legislation accordingly.

70. The Government is strongly encouraged to repeal the law on the prohibition of the use of satellite antennae and to consider appropriate and proportionate means to protect public morals while safeguarding the right of every person under its jurisdiction to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media, as guaranteed under article 19, paragraph 2, of the International Covenant on Civil and Political Rights.

71. The Government is strongly encouraged to limit legal and administrative regulation of and interference with the right to freedom of opinion and expression, especially in regard to the elaborate system of prior restraints on publication of printed matter and in regard to licensing requirements mandating the approval of the Government before a new entity may begin publishing.

72. The Government is strongly encouraged to substitute public legal procedure for administrative action, thus enabling the taking of public, clearly circumscribed and a posteriori measures concerning any legitimate restraint on publication of printed matter.

73. The practice of government officials summoning persons to present themselves at government offices for the purpose of instructing or warning them not to continue to seek to exercise their right to freedom of opinion and expression should be looked into and cease.

74. The Government is urgently appealed to take measures effectively preventing officials from encouraging or supporting private persons among the general public who resort to illegal action, including by the use of violence, threats, harassment and intimidation, against persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression.

75. The cases of all persons who are detained on charges or accusations emanating from their opinions or activities in seeking to exercise or to promote the exercise of the right to freedom of opinion and expression as affirmed in the Universal Declaration on Human Rights and as protected by article 19 of the International Covenant on Civil and Political Rights should be reviewed.

76. Likewise, cases of all prisoners who have been tried by courts of law whose competence has not been unequivocally established or who have been convicted in application of laws or regulations incompatible with the protection of the right to freedom of opinion and expression under the International Covenant on Civil and Political Rights should be reviewed.

77. The reviews recommended in the preceding two paragraphs should be completed in a specified time-schedule and the results of the reviews should be reported to the Commission on Human Rights.

78. The Government is encouraged to continue and strengthen its cooperation with the Commission on Human Rights and with non-governmental organizations active in the sphere of the mandate of the Special Rapporteur by inviting observers to trials involving aspects of freedom of opinion and expression.

79. The Government is encouraged to take steps to prevent any negative consequences for the effective enjoyment by women of the right to freedom of opinion and expression that might arise from the implementation of gender-specific legislation.